

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

Case No. 01-3624

Mark Newby, Clerk

In Re ENRON CORPORATION SECURITIES,	§	MDL 1446
DERIVATIVE & "ERISA" LITIGATION	§	
This document relates to:	§	
	§	
MARK NEWBY, et al.,	§	
(Consolidated)	§	
	§	CIVIL ACTION NO. H-01-3624
Plaintiffs,	§	
	§	
v.	§	
	§	
ENRON CORP., et al.,	§	
	§	
Defendants.		

[Caption continued on next page]

2019 CERTAIN PRIVATE ACTION PLAINTIFFS' MEMORANDUM OF LAW IN  
OPPOSITION TO BANK DEFENDANTS' MOTION TO CLARIFY THE  
MARCH 11, 2004 SCHEDULING ORDER, WITH RESPECT TO THIRD PARTY  
COMPLAINTS AND CROSS CLAIMS IN ACTIONS NOT PROCEEDING  
UNDER THE CONSOLIDATED *NEWBY* AND *TITTLE* COMPLAINTS

2004 MAR 11 10:44:35

2290

---

CONSECO ANNUITY ASSURANCE  
COMPANY, Individually and on Behalf of all  
Others Similarly Situated,

Plaintiff,

v.

CITIGROUP, INC., CITIBANK, N.A.,  
CITICORP, SALOMON SMITH BARNEY,  
INC., SCHRODER SALOMON SMITH  
BARNEY, SALOMON BROTHERS  
INTERNATIONAL LIMITED, RICK  
CAPLAN, JAMES REILLY, WILLIAM FOX,  
and MAUREEN HENDRICKS,

Defendants.

---

SILVERCREEK MANAGEMENT INC.;  
SILVERCREEK LIMITED PARTNERSHIP;  
SILVERCREEK II LIMITED; OIP LIMITED,  
and PEBBLE LIMITED PARTNERSHIP,

Plaintiffs,

v.

SALOMON SMITH BARNEY, INC.;  
GOLDMAN SACHS & COMPANY; BANC  
OF AMERICA SECURITIES LLC; ARTHUR  
ANDERSEN LLP,

Defendants.

---

KEVIN LAMKIN, JANICE SCHUETTE,  
ROBERT FERRELL, and STEPHEN MILLER

Plaintiffs,

v.

UBS PAINEWEBBER, INC. and UBS  
WARBURG, LLC

Defendants.

---

H-03-CV-2240

H-02-3185

H:02-CV-0851

ABBEY NATIONAL TREASURY SERVICES  
plc,

Plaintiff,

v.

CREDIT SUISSE FIRST BOSTON  
CORPORATION, CREDIT SUISSE GROUP,  
CREDIT SUISSE FIRST BOSTON, CREDIT  
SUISSE FIRST BOSTON (USA), INC.,  
CREDIT SUISSE FIRST BOSTON, INC.,  
CREDIT SUISSE FIRST BOSTON (EUROPE)  
LIMITED, DEUTSCHE BANC ALEX  
BROWN INC., DEUTSCHE BANK AG,  
DEUTSCHE BANK AG LONDON, J.P.  
MORGAN CHASE & CO., J.P. MORGAN  
SECURITIES INC., J.P. MORGAN  
SECURITIES HOLDING INC., CHASE  
SECURITIES INC., J.P. MORGAN  
INVESTMENT CORPORATION, J.P.  
MORGAN SECURITIES LTD., BANK OF  
AMERICA CORPORATION, BANC OF  
AMERICA SECURITIES LLC, BANC OF  
AMERICA SECURITIES LIMITED,  
CANADIAN IMPERIAL BANK OF  
COMMERCE, CIBC INC., CIBC WORLD  
MARKETS CORP., CIBC WORLD  
MARKETS PLC, DRESDNER KLEINWORT  
WASSERSTEIN, INC., DRESDNER  
KLEINWORT WASSERSTEIN SECURITIES  
LLC, DRESDNER KLEINWORT  
WASSERSTEIN SERVICES LLC,  
DRESDNER BANK AG, DRESDNER BANK  
AG LONDON BRANCH, ABN AMRO  
INCORPORATED, ABN AMRO  
SECURITIES (USA) INC., ABN AMRO  
BANK N.V., ARTHUR ANDERSEN LLP,  
ANDERSEN WORLDWIDE, SC, MARLIN  
WATER TRUST, MARLIN WATER  
CAPITAL CORP., AND JOHN and JANE  
DOES #1 THROUGH 50,

Defendants.

CALIFORNIA PUBLIC EMPLOYEES'

CIVIL ACTION NO. H-02-3869

RETIREMENT SYSTEM,

Plaintiff,

v.

BANC OF AMERICA SECURITIES LLC;  
WACHOVIA CORPORATION F/K/A FIRST  
UNION CORPORATION F/K/A FORUM  
CAPITAL MARKETS, LLC; SALOMON  
SMITH BARNEY, INC.; GOLDMAN SACHS  
& COMPANY; JP MORGAN SECURITIES,  
INC.; CITIGROUP, INC.; MERRILL LYNCH  
& CO., INC.; RICHARD A. CAUSEY;  
JEFFREY K. SKILLING; ANDREW S.  
FASTOW; ROBERT A. BELFER; NORMAN  
P. BLAKE, JR.; RICHARD BUY; RONNIE C.  
CHAN; JOHN V. DERRICK, JR.; JOHN H.  
DUNCAN; JOE H. FOY; WENDY L.  
GRAMM; KENNETH L. HARRISON;  
ROBERT K. JAEDICKE; KENNETH L. LAY;  
CHARLES A. LEMAISTRE; REBECCA  
MARK-JUSBASCHE; JOHN ENDELSON;  
JEROME J. MEYER; PAULO V. FERRAZ  
PEREIRA; FRANK SAVAGE; JOHN A.  
URQUHART; CHARLES E. WALKER; JOHN  
WAKEHAM; BRUCE G. WILLISON;  
HERBERT S. WINOKUR, JR.; CREDIT  
SUISSE FIRST BOSTON; DEUTSCHE BANK  
ALEX BROWN, INC.; BARCLAY'S  
CAPITAL INC.; ARTHUR ANDERSEN LLP;  
ANDERSEN WORLDWIDE S.C.;  
ANDERSEN CO.; ARTHUR ANDERSEN-  
PUERTO RICO; ANDERSEN LLP; ARTHUR-  
ANDERSEN-BRAZIL; ARTHUR  
ANDERSEN; JOSEPH F. BERARDINO;  
THOMAS H. BAUER; DAVID B. DUNCAN;  
DEBRA A. CASH; DONALD DREYFUSS;  
JAMES A. FRIEDLIEB; DAVID STEPHEN  
GODDARD, JR.; GARY B. GOOLSBY;  
MICHAEL M. LOWTHER; BENJAMIN S.  
NEUHAUSEN; MICHAEL C. ODOM;  
RICHARD C. PETERSEN; JOHN E.  
STEWART; MICHAEL L. BENNETT;  
WILLIAM E. SWANSON; ROGER D.  
WILLARD; MICHAEL D. JONES;

CASE NO. CGC 02-414500

GREGORY W. HALE; JOHN E. SORRELS;  
DANNY B. RUDLOFF; PHILIP A.  
RANDALL; ROMAN W. McALINDON; and  
C.E. ANDREWS,

Defendants.

SILVERCREEK MANAGEMENT INC.;  
SILVERCREEK LIMITED PARTNERSHIP;  
SILVERCREEK II LIMITED; OIP LIMITED;  
and PEBBLE LIMITED PARTNERSHIP,

Plaintiffs,

v.

CITIGROUP, INC.; BANK OF AMERICA  
CORPORATION; J.P. MORGAN  
SECURITIES, INC.; J.P. MORGAN CHASE &  
COMPANY; CREDIT SUISSE FIRST  
BOSTON; DEUTSCHE BANK ALEX  
BROWN, INC.; DEUTSCHE BANK AG;  
BARCLAY'S CAPITAL INC., BARCLAY'S  
PLC; MERRILL LYNCH & CO.; ANDERSEN  
WORLDWIDE S.C.; ANDERSEN CO.;  
ARTHUR ANDERSEN-PUERTO RICO;  
ANDERSEN LLP; ARTHUR ANDERSEN-  
BRAZIL; ARTHUR ANDERSEN; JOSEPH F.  
BERARDINO; THOMAS H. BAUER; DEBRA  
A. CASH; DONALD DREYFUSS; JAMES A.  
FRIEDLIEB; DAVID STEPHEN GODDARD,  
JR.; GARY B. GOOLSBY; MICHAEL M.  
LOWTHER; BENJAMIN S. NEUHAUSEN;  
DAVID MICHAEL C. ODOM; RICHARD R.  
PETERSEN; JOHN E. STEWART; MICHAEL  
L. BENNETT; WILLIAM E. SWANSON;  
ROGER D. WILLARD; MICHAEL D. JONES;  
GREGORY W. HALE; JOHN E. SORRELLS;  
DANNY D. RUDLOFF; PHILLIP A.  
RANDALL; ROMAN W. McALINDON; C.E.  
ANDREWS; VINSON & ELKINS L.L.P.;  
KIRKLAND & ELLIS; KENNETH LAY;  
JEFFREY K. SKILLING; ANDREW S.  
FASTOW; ROBERT A. BELFER; NORMAN  
P. BLAKE; RONNIE C. CHAN; JOHN H.  
DUNCAN; JOE H. FOY; WENDY L.

CIVIL ACTION NO. H-03-0185

GRAMM; KENNETH L. HARRISON;  
ROBERT K. JAEDICKE; CHARLES A.  
LeMAISTRE; REBECCA MARK-  
JUSBASCHE; JOHN MENDELSON;  
JEROME J. MEYER; PAULO V. FERRAZ  
PERIERA; FRANK SAVAGE; JOHN A.  
URQUHART; JOHN WAKEHAM; HERBERT  
S. WINOKER, JR.; RICHARD CAUSEY;  
RICHARD BUY; and JOHN V. DERRICK,  
JR.,

Defendants.

VANGUARD BALANCED INDEX FUND,  
ON BEHALF OF ITS VANGUARD  
BALANCED INDEX FUND SERIES,  
100 Vanguard Boulevard  
Malvern, Pennsylvania 19355

and

VANGUARD BOND INDEX FUNDS, ON  
BEHALF OF ITS VANGUARD SHORT-  
TERM BOND INDEX FUND SERIES and  
ON BEHALF OF ITS VANGUARD TOTAL  
BOND MARKET INDEX FUND SERIES,

100 Vanguard Boulevard  
Malvern, Pennsylvania 19355

and

VANGUARD FIXED INCOME SECURITIES  
FUNDS, ON BEHALF OF ITS VANGUARD  
INTERMEDIATE-TERM CORPORATE  
FUND SERIES and ON BEHALF OF ITS  
VANGUARD SHORT-TERM CORPORATE  
FUND SERIES,

100 Vanguard Boulevard  
Malvern, Pennsylvania 19355

and

VANGUARD VARIABLE INSURANCE  
FUND, ON BEHALF OF ITS VANGUARD  
VARIABLE INSURANCE FUND - SHORT-

CIVIL ACTION NO. 03-02925

---

TERM CORPORATE PORTFOLIO SERIES §  
and ON BEHALF OF ITS VANGUARD §  
VARIABLE INSURANCE FUND - TOTAL §  
BOND MARKET INDEX PORTFOLIO §  
SERIES, §  
100 Vanguard Boulevard §  
Malvern, Pennsylvania 19355 §  
§  
and §  
§  
VANGUARD INSTITUTIONAL INDEX §  
FUND, ON BEHALF OF ITS VANGUARD §  
INSTITUTIONAL TOTAL BOND MARKET §  
INDEX FUND SERIES, §  
100 Vanguard Boulevard §  
Malvern, Pennsylvania 19355 §  
§  
and §  
§  
VANGUARD FIDUCIARY TRUST §  
COMPANY CORPORATE BOND TRUST §  
100 Vanguard Boulevard §  
Malvern, Pennsylvania 19355 §  
§  
and §  
§  
Plaintiffs, §  
§  
§  
§  
[Caption continued on next page] §  
v. §  
§  
CITIBANK, N.A., §  
333 West 34th Street, 2nd Floor §  
New York, New York 10001 §  
§  
and §  
§  
SALOMON SMITH BARNEY, INC., §  
388 Greenwich Street §  
New York, New York 10013 §  
§  
and §  
§  
DELTA ENERGY CORPORATION, §  
c/o Maples & Calder, Ugland House, §  
SouthChurch Street, Georgetown, Grand §

---

Cayman,Cayman Islands,

Defendants.

ARIC, BV,

Plaintiff,

v.

THE MAN GROUP PLC, et al.,

Defendants.

CONNECTICUT RESOURCES RECOVERY  
AUTHORITY,

v.

Plaintiff,

KENNETH L. LAY, JEFFREY K. SKILLING,  
ANDREW S. FASTOW, RICHARD  
A.CAUSEY, RICHARD B. BUY, JAMES V.  
DERRICK, JR., JEFFREY McMAHON,  
JOSEPH W. SUTTON, LAWRENCE GREG  
WHALLEY, BEN F. GLISAN, KEN L.  
HARRISON, ROBERT A. BELFER,  
NORMAN P. BLAKE, JR., RONNIE C.  
CHAN, JOHN H. DUNCAN, WENDY L.  
GRAMM, ROBERT K. JAEDICKE, JOHN  
MENDELSON, JEROME J. MEYER,  
PAULO V. FERRAZ PEREIRA, JOHN A.  
URQUHART, JOHN WAKEHAM, CHARLES  
E. WALKER, CHARLES A. LeMAISTRE,  
JOE H. FOY, FRANK SAVAGE, BRUCE G.  
WILLISON, HERBERT S. WINOKUR, JR.,  
REBECCA MARK-JUSBASCHE, ARTHUR  
ANDERSEN, LLP, JOSEPH F. BERARDINO,  
DAVID B. DUNCAN, DEBRA A. CASH,  
DAVID STEPHEN GODDARD, JR., GARY  
B.GOOLSBY, MICHAEL M. LOWTHER,  
BENJAMIN S. NEUHAUSEN, MICHAEL C.  
ODOM, JOHN E. STEWART, MICHAEL L.

CIVIL ACTION NO. H-03-3947

CIVIL ACTION  
NOS. H-03-1558, H-03-1579  
(Formerly Civil Action  
Nos. Nos. 3:02CV02095(WWE),  
and 3:02CV02107(WWE)  
in the District of Connecticut)



---

BENNETT, WILLIAM E. SWANSON,	§
ROGER D. WILLARD, GREGORY W. HALE,	§
JOHN E. SORRELLS, DANNY D. RUDLOFF,	§
VINSON & ELKINS, LLP, KIRKLAND &	§
ELLIS, ANDREWS & KURTH, L.L.P.,	§
MILBANK, TWEED, HADLEY & MCCLOY	§
LLP, J. P. MORGAN CHASE & CO., J. P.	§
MORGAN SECURITIES, INC., J. P.	§
MORGAN CHASE BANK, CITIGROUP,	§
INC., CITIGROUP GLOBAL MARKETS	§
REALTY CORP. (F/K/A SALOMON SMITH	§
BARNEY, INC.), CITIBANK, N.A.,	§
CITIGROUP GLOBAL MARKETS, LTD.	§
(F/K/A SALOMON BROTHERS	§
INTERNATIONAL LIMITED), MERRILL	§
LYNCH & CO., MERRILL LYNCH, PIERCE,	§
FENNER & SMITH, INC., BARCLAYS	§
CAPITAL, INC., BARCLAYS BANK, PLC,	§
CREDIT SUISSE FIRST BOSTON (USA),	§
INC., CREDIT SUISSE FIRST BOSTON LLC,	§
DONALDSON, LUFKIN & JENRETTE	§
SECURITIES CORP., PERSHING, LLC,	§
CANADIAN IMPERIAL BANK OF	§
COMMERCE, CIBC, INC., CIBC WORLD	§
MARKETS CORP., CIBC WORLD	§
MARKETS PLC, CIBC CAPITAL	§
CORP.,BANK OF AMERICA CORP., BANK	§
OF AMERICA SECURITIES LLC,	§
DEUTSCHE BANK AG, DEUTSCHE BANK	§
SECURITIES INC., DEUTSCHE BANK	§
TRUST COMPANY AMERICAS,	§
TORONTO-DOMINION BANK, TORONTO-	§
DOMINION HOLDINGS (U.S.A.), INC., TD	§
SECURITIES, INC., TD SECURITIES (USA),	§
INC., TORONTO-DOMINION	§
INVESTMENTS, INC., TORONTO	§
SECURITIES LTD., TORONTO DOMINION	§
(TEXAS), INC., THE ROYAL BANK OF	§
SCOTLAND GROUP PLC, THE ROYAL	§
BANK OF SCOTLAND PLC, NATIONAL	§
WESTMINSTER BANK PLC, GREENWICH	§
NATWEST STRUCTURED FINANCE, INC.,	§
GREENWICH NATWEST LTD., CAMPSIE	§
LTD., ROYAL BANK OF CANADA, ROYAL	§
BANK HOLDING, INC., ROYAL BANK DS	§
HOLDING, INC., RBC DOMINION	§

---

---

SECURITIES LTD, RBC DOMINION  
SECURITIES, INC., ROYAL BANK OF  
CANADA EUROPE LTD, RBC HOLDINGS  
(USA) INC., RBC DOMINION SECURITIES  
CORP., STANDARD & POOR'S CREDIT  
MARKET SERVICES, A DIVISION OF THE  
MCGRAW-HILL COMPANIES, INC.,  
MOODY'S INVESTORS SERVICE, INC., and  
FITCH, INC.,

Defendants.

---

UNICREDITO ITALIANO SPA AND  
BANK POLSKA KASA OPIEKI SA,

Plaintiffs,

v.

JPMORGAN CHASE BANK, J.P. MORGAN  
CHASE & CO., J.P. MORGAN SECURITIES  
INC., CITIBANK, N.A., CITIGROUP, INC.  
AND SALOMON SMITH BARNEY, INC.,

Defendants.

---

Civil Action No. H-04-0324

Plaintiffs in the above-styled actions (collectively “Private Action Plaintiffs”) hereby submit this Memorandum Of Law In Opposition To Bank Defendants’ Motion To Clarify The March 11, 2004 Scheduling Order, With Respect To Third Party Complaints And Cross Claims In Actions Not Proceeding Under The Consolidated *Newby* And *Tittle* Complaints.<sup>1</sup>

The Bank Defendants’ Motion, pursuant to which the Bank Defendants seek modification, and not clarification, of this Court’s March 11, 2004 Scheduling Order (the “March 11<sup>th</sup> Order”) should be denied for reasons discussed herein.

### **ARGUMENT**

**A. The Bank Defendants’ Motion Should Be Denied Because The Plain Language Of The March 11<sup>th</sup> Order States That The Deadline For Joining New Parties And Asserting Cross Claims In The Private Action Plaintiffs’ Actions Is August 2, 2004**

Pursuant to the March 11<sup>th</sup> Order, this Court unambiguously set the deadline to join new parties and/or to file third-party complaints or cross claims/complaints in “those consolidated and coordinated cases” (the “Private Action Plaintiffs’ Actions”) as August 2, 2004. March 11<sup>th</sup> Order at 1. The March 11<sup>th</sup> Order states, “the Pretrial-Scheduling Order, which shall apply to the *Tittle* and *Newby* actions and those consolidated and coordinated cases for discovery purposes (Private Action Plaintiffs’ Actions), shall be as follows: ... Deadline to join new parties or to file a third party complaint or cross complaint/claims – Monday, August 2, 2004.” *Id.*

The Bank Defendants’ claim that they seek to clarify the explicit language of the March 11<sup>th</sup> Order is disingenuous. In fact, the Bank Defendants do not seek any clarification of the unambiguous language of the March 11<sup>th</sup> Order, rather the Bank Defendants now seek to modify

---

<sup>1</sup> The Bank Defendants’ Motion To Clarify The March 11, 2004 Scheduling Order, With Respect To Third Party Complaints And Cross Claims In Actions Not Proceeding Under The Consolidated *Newby* And *Tittle* Complaints is hereinafter referred to as the “Bank Defendants’ Motion”.

that Order and ask this Court to extend the deadline for adding new parties to some future and unspecified date.<sup>2</sup>

In the March 11<sup>th</sup> Order, this Court stated, “This Court considers the scheduled dates to be ***firm***, which are not subject to change without sufficient reason.”<sup>3</sup> March 11<sup>th</sup> Order at 1 (emphasis in original). Furthermore, this Court has previously admonished the parties against the modification of any scheduling order when it stated, “This case must simply stay on schedule. There will undoubtedly be more fits and starts in the discovery process, but the primary goal must be to stay on schedule.” Order On Bank Defendants’ Motion And Memorandum Of Law For Modification Of The Scheduling Order dated May 28, 2004 at 3 (emphasis added).

In recognition of this Court’s admonition, Abbey Gardy, LLP<sup>4</sup>, which was chosen by the other Private Action Plaintiffs to act as the representative for all Private Action Plaintiffs concerning discovery and scheduling matters in the consolidated and coordinated actions, has been working diligently with Lead Counsel for both the *Newby* and *Tittle* actions as part of the Deposition Scheduling Committee and its subcommittees to insure complete coordination of all merits discovery. Pushing the date on which new parties may be joined or cross claims asserted back 90 days or more would greatly disrupt this process of coordination, as well as contradict both the plain language of the March 11<sup>th</sup> Order and the previous order of this Court.

---

<sup>2</sup> The Bank Defendants have asked this Court to extend the deadline for joining new parties and/or filing third-party complaints or cross-claims until the later of November 1, 2004 or 30 days after the filing of their answer in an action by any given Private Action Plaintiff. The Bank Defendants have chosen this time-table because such time-table is in place in the Enron Adversary Action before Judge Gonzalez. The Enron Adversary Action is wholly separate from the *Newby*, *Tittle* and Private Action Plaintiff Actions. The Enron Adversary Action is before a different judge and is proceeding on a separate discovery track with its own separate and distinct schedule.

<sup>3</sup> For reasons discussed herein, Bank Defendants have not put forth “sufficient reason” for modification of the March 11<sup>th</sup> Order.

<sup>4</sup> Abbey Gardy LLP is co-counsel for Conseco Annuity Assurance Company in the action entitled, *Conseco Annuity Assurance Company v. Citigroup et al.*, H-03-CV-2240.

Accordingly, Private Action Plaintiffs respectfully request that this Court deny the Bank Defendants' Motion.

**B. The Bank Defendants' Motion Should Be Denied Because Modification Of The March 11<sup>th</sup> Order Will Severely Prejudice Newly-Joined Parties**

Should this Court grant the Bank Defendants' Motion, the Bank Defendants would be permitted to add new parties until the later of November 1, 2004 or 30 days after the filing of the Bank Defendants' Answer in an action by a Private Action Plaintiff. As this Court is aware, the Court-ordered 18-month-long deposition schedule is well underway and discovery for the month of September is currently being planned. Extensive coordination of the scheduling for these depositions is occurring almost daily with countless committee conferences and calls occurring on an on-going basis. Should the Court permit the Bank Defendants to add new parties after August 2, 2004, there is a significant likelihood that any parties added after August 2, 2004 would be severely prejudiced because they will not have a meaningful opportunity to take part in the on-going coordinated discovery. Between August 2, 2004 and November 1, 2004, approximately 40 depositions will be taken.<sup>5</sup> Additionally, parties in the *Tittle*, *Newby*, and Private Action Plaintiffs' Actions have produced, and continue to produce everyday, millions of pages of documents. Parties joined after the August 2<sup>nd</sup> deadline imposed by the March 11<sup>th</sup> Order will not be able to participate in any of these depositions, or have the benefit of attending, in person. Furthermore, these parties will be forced to order multiple productions of documents, generated by multiple producing parties, at one time, just to "catch-up" with others who have been participating in such discovery for months.

---

<sup>5</sup> At the time of the filing of this brief, the parties have scheduled approximately 27 depositions for the months of August and September, collectively. The parties have yet to schedule depositions for the months of October and November. Once such depositions are scheduled, the number of depositions will most likely increase by as much as 26; 13 being the average number of depositions taken in one month.

Accordingly, without the benefit of being able to participate in on-going coordinated discovery, any parties joined after the August 2<sup>nd</sup> deadline imposed by the March 11<sup>th</sup> Order, will likely be severely prejudiced.

**CONCLUSION**

For the foregoing reasons, Private Action Plaintiffs respectfully request that this Court deny the Bank Defendants' Motion.

Dated: July 23, 2004

Respectfully Submitted,

By: 

W. Kelly Puls

Brant Martin

**Puls Taylor & Woodson, LLP**

2600 Airport Freeway

Fort Worth, TX 76111

Phone: (817) 338-1717

Fax: (817) 338-1416

Paul O. Paradis

Evan J. Kaufman

Gina M. Tufaro

**Abbey Gardy, LLP**

212 East 39<sup>th</sup> Street

New York, NY 10016

Phone: (212) 889-3700

Edward F. Haber

Michelle H. Blauner

Theodore M. Hess-Mahan

Matthew L. Tuccillo

**Shapiro Haber & Urmy, LLP**

75 State Street

Boston, MA 02109

Phone: (617) 439-3939

*Attorneys For Plaintiffs Conseco Annuity  
Assurance Company*

By: Steven Williams, by permission  
Steven N. Williams

**Cotchett, Pitre, Simon & McCarthy**  
San Francisco Airport Office Center  
840 Malcolm Road, Suite 200  
Burlingame, California 94010  
Phone: (650) 697-6000

*Attorneys For Plaintiffs Silvercreek  
Management Inc.; Silvercreek Limited  
Partnership; Silvercreek II Limited; OIP  
Limited, And Pebble Limited Partnership; and  
Attorneys For Plaintiff California Public  
Employees' Retirement System*

By: Kirk Dillman, by permission  
Kirk Dillman

Robert Palmer  
**Hennigan, Bennett & Dorman LLP**  
601 S. Figueroa Street, Suite 3300  
Los Angeles, CA 90017  
Phone: (213) 694-1101

*Attorneys for Plaintiffs, The Variable Annuity  
Life Insurance Company, VALIC Company I,  
VALIC Company II, AIG Annuity Insurance  
Company, AIG Life Insurance Company,  
Sunamerica Life Insurance Company, AIG  
Sunamerica Life Assurance Company, and  
Aldersgate (DEL.) NO. 3 L.L.C.*

By: Sondra Jones, by permission  
Sondra Jones

**Brewer & Pritchard, P.C.**  
3 Riverway, 18th Floor,  
Houston, Texas 77056  
Phone: (713) 209-2950

*Attorneys For Plaintiff ARIC, BV*

By: Richard Goldstein, by permission  
Richard H. Goldstein  
**Pepe & Hazard, LLP**  
225 Asylum Street, Goodwin Square  
Hartford, CT 06103  
(860) 522-5175

*Attorneys For Plaintiff Connecticut Resources  
Recovery Authority*

By: Steven Berman, by permission  
Steven Berman  
Clyde Platt  
**Hagens Berman, LLP**  
1301 Fifth Ave. Suite 2900  
Seattle, WA 98101  
Phone: (206) 623-7292

*For Plaintiffs Abbey National Treasury Services  
Plc*

By: Joe Kendall, by permission  
Joe Kendall, Esq.  
Debbie Branscum, Esq.  
**Provost Umphrey Law Firm, LLP**  
3232 McKinney Ave., Suite 700  
Dallas, TX 75242  
Phone: (214) 744-3000

*For Plaintiffs Kevin Lamkin, Janice Schuette,  
Robert Ferrell, And Stephen Miller*

By: Frank Razzano, by permission  
Frank C. Razzano  
**Dickstein Shapiro Morin  
& Oshinsky LLP**  
2101 L Street, N.W.  
Washington, DC 20037  
(202) 785-9700  
(202) 887-0689 (Fax)

*Attorney for Vanguard Balanced Index Fund,  
on behalf of its Vanguard Balanced Index Fund*



*Series; Vanguard Bond Index Funds, on behalf of its Vanguard Short-Term Bond Index Fund Series and on behalf of its Total Bond Market Index Fund Series; Vanguard Fixed Income Securities Funds, on behalf of its Vanguard Intermediate-Term Corporate Bond Fund Series and on behalf of its Vanguard Short-Term Corporate Bond Fund Series; Vanguard Variable Insurance Fund, on behalf of its Short-Term Corporate Bond Portfolio Series and on behalf of its Total Bond Market Index Portfolio Series; and Vanguard Fiduciary Trust Company Corporate Bond Trust.*

By: Charles G. Berry by permission  
Charles G. Berry (CB2389), *Pro Hac Vice*  
Robert A. Goodman (RG5026), *Pro Hac Vice*  
**Arnold & Porter LLP**  
399 Park Avenue  
New York NY 10022-4690  
(212) 715-1000

Thomas J. Elliott (TE 6878)  
Mark A. Kearney (MK 8763)  
John P. Elliott (JE 4633)  
Thomas N. Sweeney (TS 9077)  
**Elliott Reihner & Siedzikowski, P.C.**  
925 Harvest Drive, Suite 300  
Blue Bell, PA 19422  
(215) 977-1000

*Attorneys for Plaintiffs UniCredito Italiano SpA  
and Bank Polska Kasa Opieki SA*

By: Timothy M. McCloskey by permission  
Timothy M. McCloskey  
**Carrigan McCloskey &  
Roberson, L.L.P.**  
5300 Memorial, Suite 700  
Houston, Texas 77007  
Phone: (713) 868-5581

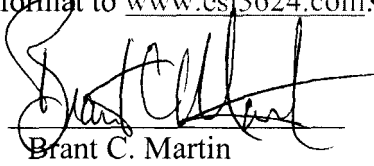
Jeffrey L. Glatzer  
Jordan W Siev  
David A. Solomon  
**Anderson Kill & Olick, P.C.**  
1251 Avenue of the Americas  
New York, New York 10020  
Phone: (212) 278-1000

*Attorneys for Plaintiffs Bayerische Landesbank,  
formerly known as Bayerische Landesbank  
Girozentrale; Standard Chartered Bank; DZ  
Bank AG Deutsche Zentral-Genossenschaftsbank,  
Frankfurt am Main, New York Branch;  
Dresdner Bank AG, New York and Grand  
Cayman Branches; Arab Banking Corporation  
(B.S.C.), New York Branch; and WestLB AG,  
formerly known as Westdeutsche Landesbank  
Girozentrale, New York Branch*

CERTIFICATE OF SERVICE

I hereby certify that on this 23<sup>rd</sup> day of July, 2004, a copy of the forgoing document was served on all counsel of record by posting in PDF format to [www.esj3624.com](http://www.esj3624.com).

By:



Brant C. Martin